



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

November 23, 2009

Ms. Diann Kitamura

REDACTED

Advisory Letter Re. FPPC No. 09/628; Diann Kitamura

Dear Ms. Kitamura:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code section 81000, et seq. This letter is in response to a complaint filed against you that alleged that you violated two provisions of the Act, including the following:

The complaint alleged that you failed to properly file your Statement of Intention ("SOI") during the November 4, 2008, Galt High School Board election. Specifically, the complaint alleges that you failed to file a SOI in Sacramento County in violation of § 85200.

The complaint additionally alleges that you failed to disclose on your campaign statement contributions and/or expenditures totaling \$1,000 in violation of the Act § 84200.

The FPPC has completed its investigation of the facts in this case. Specifically, because you did not spend or raise money on your campaign, you are not required to file an SOI. Additionally, the FPPC found that you did not raise or spend over \$1,000 so you did not need to file an additional statement.

The Act provides that failure to file your SOI in all counties where filing is required is prohibited. Specifically the Act provides that prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for state or local elective office must file a SOI. (§ 85200) Under the Act, "contribution" and "loan" do not include any payments from the candidate's personal funds for a candidate filing fee or a candidate statement of qualifications fee, but do include "the candidate's own money or property used on behalf of his or her candidacy." (§ 82015(c).)

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Candidates who do not have a committee, and who do not anticipate raising or spending \$1,000 or more during the entire calendar year, may file one short form campaign statement (Form 470) in connection with an election and incur no additional filing requirements as long as receipts and expenditures remain under \$1,000. (Section 84206.)

Under section 85200 a SOI must be filed before spending or raising money on your campaign. Because it appears you never raised or spent money on your campaign, you never needed to file a SOI and did not violate that section of the Act.

Our investigation did not find that you had receipts or expenditures over \$1,000. You did file an Officeholder and Candidate Campaign Statement – Short Form as required under section 84206, therefore it appears you did not violate the Act.

Had you spent more than \$1,000 without properly reporting it you would have violated sections 84200 of the Act. If you spent money without filing a SOI you would have violated section 85200 of the Act. We have determined that an enforcement action for a violation is not warranted. Although we have decided not to pursue an enforcement action in this matter, you are advised that your failure to comply with the provisions of the Act in the future could result in an enforcement action.

Your cooperation in ensuring that the requirements of the Act are consistently satisfied is greatly appreciated. If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

REDACTED

Ty D. Moore
Commission Counsel
Enforcement Division